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21 UNITED STATES DISTRICT COURT
22 CENTRAL DISTRICT OF CALIFORNIA

23 EDEN SURGICAL CENTER, a
24 California medical corporation,

25 Plaintiff,

26 v.

27 TENET HEALTHCARE
28 CORPORATION, C/O TENET
BENEFITS ADMINISTRATION
COMMITTEE, in its capacity as plan
administrator; TENET BENEFITS
ADMINISTRATION COMMITTEE,

Defendants.

Case No. CV09 07156 FMO

**STIPULATION RE: STAY OF
ACTION**

1 WHEREAS, counsel for plaintiff Eden Surgical Center (“Eden”) and defendant
2 Tenet Benefits Administration Committee (“Tenet”) appeared before this Court on
3 June 16, 2010, for hearing on the parties’ cross-motions for summary judgment;

4 WHEREAS, counsel and the Court discussed various options for the
5 management of this action, taking into consideration certain appeals involving Eden
6 now pending before the Ninth Circuit (*Eden Surgical Center v. B. Braun Medical,*
7 *Inc.*, Case No. 09-56616; *Eden Surgical Center v. Rudolph Foods Company, Inc.*,
8 Case No. 09-56626; collectively the “Appeals”) and the additional briefing sought by
9 this Court regarding the parties’ cross-motions for summary judgment;

10 WHEREAS, these parties agreed with the Court’s suggestion that stipulating to
11 a stay of this action until the Appeals are resolved is the most logical and efficient
12 manner to proceed;

13 THE PARTIES HEREBY STIPULATE AS FOLLOWS:

- 14 1. The present action will be stayed pending resolution of the Appeals;
- 15 2. Pursuant to this stay, the parties’ cross-motions for summary judgment are
16 taken off-calendar and will be rescheduled and/or re-briefed once the stay is lifted;
- 17 3. Pursuant to this stay, all discovery will be held in abeyance and all other
18 hearing, pre-trial and/or trial dates will be taken off-calendar.
- 19 4. Should a resolution be reached or a decision issued in either Appeal,
20 Plaintiff’s counsel agrees to notify Defendant’s counsel. Plaintiff’s counsel will serve
21 a Notice of the Status of Appeal(s) before the Ninth Circuit upon Defendant’s counsel
22 if either Appeal(s) are resolved or if the Ninth Circuit issues a decision.
- 23 5. Each party will submit briefing within 15 days of the effective date of
24 service of the last served Notice of the Status of Appeal(s) referenced in the paragraph
25 above. Such briefing shall address the party’s interpretation of the decision(s) in the
26 Appeal(s), if any, and identify further briefing the Court may deem relevant to the
27 determination of this action. The parties’ briefs will not exceed 15 pages. Optional
28

1 responsive briefs shall be filed 10 days later, and will not exceed 10 pages. No reply
2 briefs will be permitted.

3 6. The Court will schedule a status conference to address case management
4 issues after receiving the parties' above-mentioned briefing regarding the results of
5 the Appeals.

6 7. For purposes of 29 U.S.C. § 1132(c), Plaintiff agrees not to seek recovery of
7 any penalties which may accrue from June 16, 2010 through 30 days after the date of
8 the last served Notice of the Status of Appeal(s) referenced above.

9 IT IS SO STIPULATED.

10
11 Dated: June 21, 2010

THE JEWETT LAW GROUP, INC.

12
13 By: /S/ Bradley E. Jewett

14 BRADLEY E. JEWETT
15 Attorneys for Plaintiff
Eden Surgical Center

16
17 Dated: June 21, 2010

ALLEN MATKINS LECK GAMBLE
18 MALLORY & NATSIS LLP

19
20 By: /S/ Monica M. Quinn

21 MONICA M. QUINN
22 Attorneys for Defendants
Tenet Benefits Administration Committee